



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive Report Regarding League of California Cities Communications Pertaining to Senate Bill 89 and Senate Bill 931

MEETING DATE: July 20, 2011

PREPARED BY: City Clerk

RECOMMENDED ACTION: Receive report regarding League of California Cities (League) communications pertaining to Senate Bill 89 and Senate Bill 931.

BACKGROUND INFORMATION: The City received a request for communication from the League pertaining to **SB 89** and **SB 931**. A request for veto to SB 89 and letter of opposition to SB 931, signed by the Mayor, were sent out immediately as the bills were being heard in committee shortly.

As you are aware, SB 89 (Committee) passed as a part of the Governor's approved budget package and was chaptered on June 30, 2011. SB 89 requires the Legislature to determine and appropriate annually an amount for the use of the DMV and the FTB for the enforcement of the Vehicle License Fee Law. The bill deems for the 2011/12 fiscal year \$25,000,000 as the cost to the DMV for the collection of the motor vehicle license fee. These funds are redirected from the general funds of local governments.

SB 931 (Vargas) would prohibit public agencies from using public funds to pay outside consultants or legal advisors for the purpose of counseling the public employer about ways to minimize or deter the exercise of rights guaranteed under existing law. The provisions would not apply to payments for representation of a public sector employer before any court, administrative agency, or tribunal of arbitration, or for payments for engaging in collective bargaining on behalf of the employer with respect to wages, hours, or other terms and conditions of employment. The proposed bill violates attorney-client privilege and is vague as to language in its current form.

The above-referenced letters were sent as requested on June 30, 2011 and July 5, 2011 respectively and this report is provided for informational purposes only.

FISCAL IMPACT: None.

FUNDING AVAILABLE: Not applicable.

A handwritten signature of Randi Johl, the City Clerk, written in black ink.

Randi Johl
City Clerk

APPROVED:

A handwritten signature of Konrad Bartlam, the City Manager, written in black ink.

Konrad Bartlam, City Manager

CITY COUNCIL

BOB JOHNSON, Mayor
JOANNE MOUNCE,
Mayor Pro Tempore
LARRY D. HANSEN
PHIL KATZAKIAN
ALAN NAKANISHI

CITY OF LODI

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KONRADT BARTLAM,
City Manager
RANDI JOHL, City Clerk
D. STEPHEN SCHWABAUER
City Attorney

June 30, 2011

Governor Edmund G. Brown, Jr.
State of California
State Capitol Building
Sacramento, California 95814
Via Facsimile: (916) 558-3177

**SUBJECT: SB 89 – DIVERSION OF CITY VLF REVENUE
REQUEST FOR VETO**

Dear Governor Brown:

The City of Lodi respectfully requests a VETO of SB 89.

SB 89 came into print late in the day on June 28, 2011 and was rushed through the process with little discussion. It contains a provision that would sweep approximately \$130 million of city general fund revenues from the current vehicle license fee formula to a special law enforcement account beginning July 1, 2011.

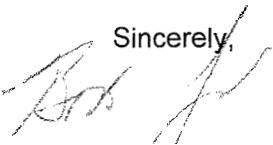
Given our preliminary analysis this will cost our city \$227,000 per year.

These are general purpose funds that are needed at the local level to provide vital local services which include fire and emergency services, library, parks and transportation. This measure attempts to shift these funds from our community to be used by law enforcement outside our boundaries and around the state.

The lack of legislative transparency to rush this measure through with no opportunity for public input is an embarrassment to the state.

For these reasons the City of Lodi respectfully requests your veto of SB 89.

Sincerely,



Bob Johnson
Mayor

C: Senator Tom Berryhill (916-327-3523)
Assembly Member Alyson Huber (916-319-2110)
Natasha Karl, League of California Cities
Stephen Qualls, League of California Cities

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KONRADT BARTLAM,
City Manager
RANDI JOHL, City Clerk
D. STEPHEN SCHWABAUER
City Attorney

July 5, 2011

The Honorable Juan Vargas
Member, California State Senate
State Capitol, Room 3092
Sacramento, California 95814
Via Facsimile: (916) 327-3522

SUBJECT: SB 931 (Vargas)—Public Employee Organizations
(Amended - April 25, 2011) - **NOTICE OF OPPOSITION**

Dear Senator Vargas:

The City of Lodi respectfully opposes SB 931, which would unreasonably limit a public agency's ability to seek legal counsel.

SB 931 provides that all public agencies are forbidden to use taxpayer dollars to pay for outside consultants or legal advisors for the purpose of counseling the public employer about ways to minimize or deter the exercise of public employee union activities. The City of Lodi believes that SB 931 is an unreasonable and impermissible interference with attorney-client privilege and right to counsel.

Local governments are governed by the Meyers-Milias Brown Act. This Act protects the rights of public employees to form, join and participate in public employee unions as well as the right to refuse to join or participate in unions. In addition, the law prohibits cities from interfering with or restricting public employees from union participation. Given these existing protections, it is not clear what SB 931 is actually attempting to remedy.

First, SB 931's proposed changes impermissibly invade the attorney-client, as well as attorney work product, privileges. We believe that cities must be entitled to seek counsel, and freely communicate thoughts and ideas with counsel, in order to best determine their rights and obligations. SB 931 would have an impermissible chilling effect on such communications and will violate public policy and the effective administration of justice.

Second, the proposed language in SB 931 is so vague the only way to determine whether a communication would be wrongful would be to require disclosure of the communication, which would also violate the attorney-client privilege. Additionally, the threat of disclosure would likely deter employers from getting advice on issues that may fall in the grey area, of which there are many. As a result, this bill could lead to higher fees as cities would not be able to secure advice until litigation or administrative proceedings already commenced.

For these reasons, the City of Lodi respectfully opposes your SB 931. Please do not hesitate to contact us for additional information.

Sincerely,

Bob Johnson, Mayor
City of Lodi

C: Senator Tom Berryhill (916-327-3523)
 Assembly Member Alyson Huber (916-319-2110)
 Karen Green, Assembly Public Employees, Retirement and Social Security
 (916-319-3956)
 Drew Liebert, Assembly Judiciary Committee (916-319-2188)
 Gareth Elliot, Governor's Office-Legislative Affairs Secretary (916-558-3160)
 Natasha Karl, League of California Cities
 Stephen Qualls, League of California Cities